

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: PAULINE J. CLEMENTS

)
)
)
)
)

No. 12-EEC-010

Appeal of OEIG
Revolving Door
Determination

DECISION

This cause is before the Executive Ethics Commission ("Commission") on appeal by the Office of the Attorney General from a determination by the Office of the Executive Inspector General for Agencies of the Illinois Governor.

FINDINGS OF FACT

A complete copy of the record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of the Attorney General's April 30, 2012 Brief in Support of Appeal, and the Office of the Executive Inspector General for Agencies of the Illinois Governor's May 5, 2012 Comments to the Illinois Attorney General's Appeal of Its Revolving Door Determination.

Based upon this record, the Commission makes the following findings of fact:

1. On April 20, 2012, the Office of the Executive Inspector General for Agencies of the Illinois Governor (OEIG) made a revolving door determination pursuant to 5 ILCS 430/5-45(f) with respect to Pauline J. Clements (Clements) proposed employment with Country Health Care & Rehab Center ("Country Health").
2. The determination concluded that "**you are not restricted** from accepting the employment opportunity described in your materials by the Revolving Door prohibitions of the State Officials and Employees Ethics Act." (emphasis in original).
3. On April 30, 2012, the Office of the Illinois Attorney General filed a brief in support of its appeal.
4. Clements was employed with the Illinois Department of Public Health as Health Facility Surveillance Nurse in the Long Term Care Field Operations Department. She served in this capacity between March 1, 1991 and December 31, 2011.
5. As a Health Facility Surveillance Nurse, she was responsible for surveying all facilities in Region 6, which includes Country Health.

6. Clements did not seek employment from Country Health, but rather was approached about a position when she was visiting a friend at the facility. On March 31, 2012, Clements was offered a position as Manager of Quality of Life Programs with Country Health.
7. In Clements' notification of an offer of employment to the Office of the Executive Inspector General, signed and dated on April 6, 2012, Clements acknowledges that she has had interaction with employees or agents of her prospective employer in the year prior to her termination of State employment. Clements also acknowledges that she had signatory or actual authority to issue regulatory or licensing decisions in the year prior to her termination of State employment.
8. In the year prior to Clements' termination of State employment, she had certain involvement in licensing or regulatory decisions involving Country Health. Clements participated in a follow-up licensing survey of Country Health completed on January 18, 2011 and an annual and licensure survey of Country Health completed on November 17, 2011. Clements was the team coordinator for the November 2011 annual license and certification survey.
9. Surveying teams consist of four employees. During the surveys of Country Health, the survey teams that Clements coordinated or participated in as a member made findings of deficiencies against Country Health. These findings affected or had the potential to affect the licensure status of her prospective employer.
10. Ms. Clements reports that she cares for her disabled husband and 93 year-old father, and that she had worked for Country Health forty years ago. She also reports that she intends to work only part time for Country Health.
11. The Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

CONCLUSIONS OF LAW

1. An Executive Inspector General's determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. The present appeal of the February 24, 2012 revolving door determination made by the OEIG pursuant to 5 ILCS 430/5-45(f) with respect to Pauline J. Clement's proposed employment is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (b) of the revolving door section of the State Officials and Employees Ethics Act currently provides:

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

5 ILCS 430/5-45(b)

4. Clements participated personally and substantially in making a regulatory or licensing decision that directly applied to her prospective employer when she participated in a follow-up licensing survey of Country Health completed on January 18, 2011.
5. Clements participated personally and substantially in making a regulatory or licensing decision that directly applied to her prospective employer when she served as a team coordinator of an annual and licensure survey of Country Health completed on November 17, 2011.
6. Clements' personal and substantial participation in these matters occurred within one year of her termination of State employment on December 31, 2011.
7. The Ethics Act provides that "[i]n deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission...shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based upon the totality of the participation by the former officer, member, or State employee in those decisions." 5 ILCS 430/5-45(g).
8. The Commission considers the following relevant information as aggravating:
 - a. Clements was not only personally and substantially involved in making licensing and regulatory decisions, but she also coordinated the team that conducted the license and certification survey.
 - b. Clements prior working relationship with Country Health and the fact that she lives about one-third of a mile from Country Health in a small community and has visited friends in the facility suggests that she has an unusually close relationship with her prospective employer.
9. The Commission considers the following relevant information as mitigating:

- a. Clements did not seek employment immediately upon her termination of State employment, but rather, her prospective employer approached her about the position.

10. Considering all relevant information and the effect of the prospective employment upon the regulatory or licensing decisions referred to in subsection (b) of 5 ILCS 430/5-45, the Commission finds, based upon the totality of the participation by the employee in those decisions, that Clement's participated personally and substantially in making a regulatory or licensing decision that directly applied to her prospective employer within one year of her termination of State employment.

WHEREFORE, for the foregoing reasons, the Commission grants the Attorney General's appeal and vacates the Office of the Executive Inspector General's April 20, 2012 determination. Clements' proposed employment with Country Health Care & Rehab Center would violate the State Officials and Employees Ethics Act's revolving door prohibition.

This is a final administrative decision and subject to the Administrative Review Law.

ENTERED: May 10, 2012

SO ORDERED.

The Executive Ethics Commission

By:



Chad D. Fornoff
Executive Director